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09/777,078	02/05/2001	Alessandro Carissimo	P/80-1	9553

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EXAMINER

SHIMIZU, MATSUICHIRO

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 12/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/777,078

Applicant(s)

CARISSIMO, ALESSANDRO

Examiner

Matsuichiro Shimizu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8 and 10, 12-24 is/are rejected.
- 7) ☒ Claim(s) 9 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Amendment***

The examiner acknowledges amended claims 1-4 and 6-24, and canceled claim 5.

The examiner withdraw the rejection under 35 USC § 112, first paragraph, as the applicant defines devices in amended claim 1.

The examiner withdraw the rejection under 35 USC § 112, second paragraph, as the applicant defined said receiver to be two-way communication device in claim 10.

The examiner requests the applicant to provide corrected abstract in view of examiner's objection filed on 6/5/2002.

***Response to Arguments***

Applicant's arguments with respect to claims 1 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed on 10/9/2002 have been fully considered and examiners response is provided as follows:

Regarding applicant's argument (lines 3-4, page 7; lines 17-19, page 7), the examiner maintains that Lovegreen discloses a software programmer (col. 6, lines 43-51; , transmitted data communication signals to reprogram or download to the electronic device are associated with a software programmer).

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Regarding applicant's argument (lines 15-17, page 7), the examiner maintains that Lovegreen discloses a receiver (col. 4, lines 20-43, pager) having a display and a user interface. However, a pager responds to the caller without displayed caller's phone number and keypad.

Regarding applicant's argument (line 22, page 7 to line 2, page 8), the examiner notes that subject matter, a device comprising a Charger, a Receiver, Transmitter and Software Programmer is not claimed in claim 2.

Regarding applicant's argument (lines 5-15, page 9; line 10, page 14 to line 2, page 15), the examiner maintains that applicant addresses the claim as defined by the specification. However, the rejections are based on the broadest reasonable interpretation, one of ordinary skill in the art considers the "claimed invention" to be. That is, applicant's arguments are narrower than limitations in claims 11 and 20-22.

Regarding applicant's argument (lines 11-15, page 10), the examiner maintains that: Lovegreen and McNally discloses paging system associated with waiting customer to be seated in the restaurant, and Lovegreen suggests paging coasters to notify the customer to be seated at individual tables and McNally teaches said transmitter tracks the last several pages that were made to control the seating arrangement in the restaurant. Therefore, they are combinable under 103 rejection of claim 12.

*Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Applicant's abstract is less than 50 words in length. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. Therefore, the examiner requests the applicant providing the abstract within the range of 50 to 150 words in length.

Abstract should avoid using phrase "the present invention" which can be implied.

*Claim Rejections – 35 USC § 102*

3 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 7-8, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lovegreen et al. (5,814,968).

Regarding claim 1, Lovegreen discloses an electronic paging system (Fig. 5, col. 1, line 49-59, a system associated with paging coaster for seating notification) comprising; a receiver (col. 5, lines 8-21, paging coasters, walkie talkies, other rechargeable electronic devices) having a display and a user interface; a transmitter (col. 1, line 49-59, restaurant owner transmits or pages by sending signals to paging coaster); and a software programmer (col. 6, lines 43-51, programmer associated with reprogramming the electronic device by uploading and downloading the software associated with data communication) which uploads and downloads software to and from said transmitter or receiver.

Regarding claim 2, Lovegreen continues, as disclosed in claim 1, to disclose a charger (col. 6, 43-54, a charger or base unit (10)).

Regarding claim 7-8, Lovegreen continues, as disclosed in claim 2, to disclose said receiver can download software and data from said charger (Fig. 5, base unit (10))

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and through conductive contacts (col. 6, 43-54, reprogramming the electronic devices (20) via conductive contacts (col. 6, lines 35-42, physical contacts)).

Regarding claim 10, Lovegreen continues, as disclosed in claim 1, to disclose the system wherein said receiver can perform a wireless upload or download to said transmitter and/or wireless service provider (col. 5, lines 8-21, paging coasters, walkie talkies, cellular telephones, other rechargeable electronic devices).

Regarding claim 18-21, Lovegreen continues, as disclosed in claim 2, to disclose a single charger can support many receivers at one time (Fig. 5, chargers (10a-b) and receivers or pagers (20a-f)), said charger can support both charges and stores software (col. 6, lines 43-51, reprogramming the electronic devices from said charger), said charger stores information relating to how and when said receiver was used (col. 5, lines 18-22, providing stored information to paging coasters), and said charger can download software through hard media (Fig. 5, reprogramming the electronic devices through terminals (57a-b and 58a-b)).

#### Claim Rejections - 35 USC § 103

4 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences

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between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of McNally et al. (5,850,214).

Regarding claim 12, Lovegreen continues, as disclosed in claim 1, to disclose paging coasters (col. 1, lines 49–59, paging coasters) to notify the customer to be seated at individual tables. But, Lovegreen does not disclose said transmitter tracks the last several pages that were made.

However, McNally discloses, in the art of restaurant paging system, said transmitter tracks the last several pages that were made (col. 5, lines 32–65, restaurant wait list mode of the clipboard acts as transmitter to transmit the waiting status to the pager, and updating the paged status by providing the light) to control the seating arrangement of the restaurant. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include said transmitter tracks the last several pages that were made in the device of Lovegreen because Lovegreen suggests paging coasters to notify the customer to be seated at individual



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tables and McNally teaches said transmitter tracks the last several pages that were made to control the seating arrangement in the restaurant.

Claims 3, 4, 6, 13-17 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Diem (5,696,500).

Regarding claim 3, Lovegreen continues, as disclosed in claim 1, to disclose a pager. But Lovegreen does not disclose mode of paging, advertising and entertainment.

However, Diem discloses, in the art of paging system, mode of paging, advertising and entertainment (col. 3, lines 1-27, advertising and playing of audio events) to enhance the user satisfaction (col. 11, 21-36). Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include mode of paging, advertising and entertainment in the device of Lovegreen as evidenced by Diem because Lovegreen suggests the pager and Diem teaches mode of paging, advertising and entertainment to enhance the user satisfaction.

Regarding claims 4, 6, 13-17, Diem continues, as disclosed in claim 1, to disclose a display (Fig. 13, text/graphic display (1220), a user interface (Fig. 13, 1224) and a keypad or touch panel display (col. 10, lines 33-36), and said transmitter can download software through hard media, diskette, telecommunication line and wireless

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service provider (col. 3, lines 3–27, a set of multimedia commands for a software; col. 5, lines 34–48, diskette in the computer, a set of multimedia commands for a software, Fig. 1– wireless transmission between antenna (110, 112), telecommunication line (col. 4, lines 5–15, a leased phone line)), and said transmitter stores information relating to how and when said receiver was used (col. 1, line 42 to col. 2, line 13, transmitter prepares and stores a set of multi-media commands to be used by said receiver).

Regarding claim 22, Lovegreen continues, as disclosed in claim 21, to disclose said charger downloads software through hard media. But Lovegreen does not disclose hard media is a diskette or CD.

However, Diem discloses, in the art of paging system, said transmitter can download software through diskette (Fig. 4, col. 5, lines 34–48, diskette in the computer workstation). Furthermore, one of ordinary skill in the art recognizes a floppy disk in a computer workstation and diskette are equivalent. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a diskette in the device of Lovegreen as evidenced by Diem because Lovegreen suggests hard media and Diem teaches a diskette as a hard media of downloading software.

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Regarding claims 23–24, Lovegreen continues, as disclosed in claim 2, to disclose said charger downloads software (col. 6, lines 43–51, reprogramming the electronic device) through hard media (Fig. 5, reprogramming the electronic devices through terminals (57a–b and 58a–b); col. 1, 1, lines 49–59, pager; col. 6, 43–54, a charger or base unit (10)). But Lovegreen does not disclose said charger can download software through telecommunication line and wireless service provider.

However, Diem discloses, in the art of paging system, said transmitter can download software (col. 3, lines 3–27, a set of multimedia commands for a software) through telecommunication line and wireless service provider (telecommunication line (col. 4, lines 5–15, a leased phone line); Fig. 1 – wireless transmission between antenna (110, 112) within the paging environment) as a hard media of downloading software. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include telecommunication line and wireless service provider in the device of Lovegreen as evidenced by Diem because Lovegreen suggests hard media and Diem teaches telecommunication line and wireless service provider as a hard media of downloading software.

### Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

Claims 9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Said receiver can perform a wireless upload or download to said charger, transmitter, and/or wireless service provider, as claimed in dependent claim 9, are not taught nor suggested by the prior art of record.

Said transmitter informs said receiver of queue status including updated information as to where a user is in the queue, as claimed in dependent claim 11, are not taught nor suggested by the prior art of record.

### *Conclusion*

1. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matsuichiro Shimizu whose telephone number is (703) 306-5841. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on (703-305-4704). The fax phone number for the organization where this application or proceeding is assigned is (703-305-3988).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-8576).

Matsuichiro Shimizu

December 12, 2002

MH

MICHAEL HORABIK  
SUPERVISORY PATENT EXAMINER  
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*[Signature]*